

and the federal agency will not release X, Y, or Z from liability until the waste site is remediated to the satisfaction of the agency.

(b) The estimated cost of the remediation is \$20,000,000. X, Y, and Z agree that, if Z contributes \$1,000,000 to the trust, Z will not be required to make any additional contributions to the trust, and X and Y will complete the remediation of the waste site and make additional contributions if necessary.

(c) On June 1, 1996, X, Y, and Z each contribute \$1,000,000 to the trust. The trust agreement directs the trustee to spend Z's contributions to the trust and the income allocable to Z's portion before spending X's and Y's portions. On November 30, 1996, the trustee disburses \$2,000,000 for remediation work performed from June 1, 1996, through September 30, 1996. For the six-month period ending November 30, 1996, the interest earned on the funds in the trust was \$75,000, which is allocated in equal shares of \$25,000 to X's, Y's, and Z's portions of the trust.

(d) Z made no further contributions to the trust. Pursuant to the trust agreement, the trustee expended Z's portion of the trust before expending X's and Y's portion. Therefore, Z's share of the remediation disbursement made in 1996 is \$1,025,000 (\$1,000,000 contribution by Z plus \$25,000 of interest allocated to Z's portion of the trust). Z takes the \$1,025,000 disbursement into account under the appropriate federal tax accounting rules. In addition, X's share of the remediation disbursement made in 1996 is \$487,500, and Y's share of the remediation disbursement made in 1996 is \$487,500. X and Y take their respective shares of the disbursement into account under the appropriate federal tax accounting rules.

(e) The trustee made no further remediation disbursements in 1996, and X and Y made no further contributions in 1996. From December 1, 1996, to December 31, 1996, the interest earned on the funds remaining in the trust was \$5,000, which is allocated \$2,500 to X's portion and \$2,500 to Y's portion. Accordingly, for 1996, X and Y each had interest income of \$27,500 from the trust and Z had interest income of \$25,000 from the trust.

(5) This paragraph (e) is applicable to trusts meeting the requirements of paragraph (e)(1) of this section that are formed on or after May 1, 1996. This paragraph (e) may be relied on by trusts formed before May 1, 1996, if the trust has at all times met all requirements of this paragraph (e) and the grantors have reported items of income and deduction consistent with this paragraph (e) on original or amended returns. For trusts formed before May 1, 1996, that are not described in the preceding sentence, the Commis-

sioner may permit by letter ruling, in appropriate circumstances, this paragraph (e) to be applied subject to appropriate terms and conditions.

(f) *Effective date.* The rules of this section generally apply to taxable years beginning after December 31, 1960. Paragraph (e)(5) of this section contains rules of applicability for paragraph (e) of this section. In addition, the last sentences of paragraphs (b), (c)(1), and (c)(2) *Example 1* and *Example 3* of this section are effective as of January 1, 1997.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 8080, 51 FR 9952, Mar. 24, 1986; T.D. 8668, 61 FR 19191, May 1, 1996; T.D. 8697, 61 FR 66592, Dec. 18, 1996]

§ 301.7701-5 Domestic, foreign, resident, and nonresident persons.

A domestic corporation is one organized or created in the United States, including only the States (and during the periods when not States, the Territories of Alaska and Hawaii), and the District of Columbia, or under the law of the United States or of any State or Territory. A foreign corporation is one which is not domestic. A domestic corporation is a resident corporation even though it does no business and owns no property in the United States. A foreign corporation engaged in trade or business within the United States is referred to in the regulations in this chapter as a resident foreign corporation, and a foreign corporation not engaged in trade or business within the United States, as a nonresident foreign corporation. A partnership engaged in trade or business within the United States is referred to in the regulations in this chapter as a resident partnership, and a partnership not engaged in trade or business within the United States, as a nonresident partnership. Whether a partnership is to be regarded as resident or nonresident is not determined by the nationality or residence of its members or by the place in which it was created or organized.

[32 FR 15231, Nov. 3, 1967, as amended by T.D. 8813, 64 FR 4970, Feb. 2, 1999]